

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CARY L. BATES
and EDWIN E. BURRIS

Appeal No. 1998-1388
Application No. 08/357,678

ON BRIEF

Before HAIRSTON, KRASS, and BARRY, Administrative Patent Judges.
BARRY, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the final rejection of claims 1, 2, 4-8, and 10-22. We reverse.

BACKGROUND

A graphical user interface creates a window on the display screen of a computer each time a computer program is started. A user interacts with the program through its

associated window. When the computer allows the user to run several programs simultaneously, he has access to several windows simultaneously.

Simultaneous access can require the user to manipulate the windows to access the different programs. Such manipulation includes moving a window about the screen, changing the size of a window, and minimizing a window into an icon.

The user typically manipulates a window by using a cursor associated with a mouse to perform a "drag and drop" operation. When the user wants to move a window, for example, he moves the cursor to the window, depresses a button on the mouse, "drags" the window to a location by moving the cursor thereto, and "drops" the window by releasing the button. When the user wants to resize a window, for another example, he moves the cursor to an edge of the window, depresses the button, moves the cursor to a position that approximates the desired size of the window, and releases the button. Repeated performance of the move and resize operations requires the user to repeat mechanical muscle movement throughout the day. Such repeated movements can produce carpal tunnel syndrome.

The invention at issue in this appeal enables a user to move or resize a window without having to depress a button on a mouse.

Specifically, a display screen features specialized regions called "object handles." Associated with each object handle are a geometric shape and an object handle type. The geometric shape of the object handle identifies its bounds; the shape is designed so that the user is unlikely to cause a cursor to enter the associated object handle region by mistake. The object handle type identifies the manipulation enabled by the handle.

To manipulate a window according to the invention, a user employs a mouse to move the cursor into the object handle region of a handle corresponding to the desired manipulation. To move a window, for example, the user moves the cursor into an object handle region corresponding to a window move operation. The user then moves the window by causing the cursor to move to another location on the display screen. Once the window has been moved, the user moves the cursor out of the object handle region identified by the object handle.

Claim 13, which is representative for our purposes,
follows:

13. A computer-implemented method for manipulating viewable objects on a display screen of a computer apparatus, said method comprising the step of:

moving a position identifier via a specialized path into a specialized region on said display screen, said specialized region being associated with at least one of said viewable objects, said specialized path being contained within said specialized region.

The references relied on in rejecting the claims follow:

Kerr et al. (Kerr)	5,227,771	Jul. 13, 1993
Goldman et al. (Goldman)	5,485,569	Jan. 16, 1996
		(filing May 4,

1994).

Claims 1, 2, 5, 7, 8, 11, 13, 14, 16, 18, 19, and 21 stand rejected under 35 U.S.C. § 102(e) as anticipated by Goldman. Claims 4, 6, 10, 12, 15, 17, 20, and 22 stand rejected under 35 U.S.C. § 103 as obvious over Goldman in view of Kerr. Rather than repeat the arguments of the appellants or examiner in toto, we refer the reader to the brief and answer for the respective details thereof.

OPINION

In reaching our decision in this appeal, we considered the subject matter on appeal and the rejections advanced by the examiner. Furthermore, we duly considered the arguments and evidence of the appellants and examiner. After considering the totality of the record, we are persuaded that the examiner erred in rejecting claims 1, 2, 4-8, and 10-22.

We begin by noting the following principles from Rowe v. Dror, 112 F.3d 473, 478, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997).

A prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, every limitation of the claim. See Verdegaaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "[A]bsence from the reference of any claimed element negates anticipation." Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986)).

We also note the following principles from In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).... "A prima facie case of obviousness is

established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 991 F.2d 781, 782, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting In re Rinehart, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)). If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

With these principles in mind, we address the appellants' argument and the examiner's reply.

The appellants argue, "the Goldman reference does not disclose a specialized path. While the Kerr mechanism is an important addition to the art, it similarly does not teach, disclose, or suggest of a specialized path." (Appeal Br. at 6.) The examiner's reply follows.

Goldman teaches at col. 5, lines 51 - 55, that "an event may occur when the cursor enters a predefined region or when the cursor exits from a predefined region". Goldman teaches a specialized path because in order for an event to occur, the cursor must cross the boundary between the predefined region and the area outside of the predefined region. The specialized path of Goldman involves crossing the outside of/inside of predefined region boundary. (Examiner's Answer at 6.)

"[T]he main purpose of the examination, to which every application is subjected, is to try to make sure that what each claim defines is patentable. [T]he name of the game is the claim'" In re Hiniker Co., 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) (quoting Giles S. Rich, The Extent of the Protection and Interpretation of Claims --American Perspectives, 21 Int'l Rev. Indus. Prop. & Copyright L. 497, 499, 501 (1990)). Here, claims 1, 2, and 4-12 each specify in pertinent part the following limitations:

an input mechanism for moving a position identifier, said input mechanism being capable of generating cursor events;

...

a Viewable Object Processor that allows a user to manipulate said at least one viewable object by using only said cursor events, said cursor events being generated when said position identifier is moved into a specialized region via a specialized path.

Similarly, claims 13-17 each specify in pertinent part the following limitations: "moving a position identifier via a specialized path into a specialized region on said display screen, said specialized region being associated with at least one of said viewable objects" Also similarly, claims 18-22 each specify in pertinent part the following limitations:

"a Viewable Object Processor that allows a user to manipulate a viewable object by using only cursor events, said cursor events being generated when a position identifier is moved into a specialized region via a specialized path" In short, the claims each recite moving a position identifier into a specialized region on a display screen via a specialized path.

The examiner fails to show a suggestion of the claimed limitations in the prior art. "The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not ... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis."

In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967).

It is true that the passage of Goldman relied on by the examiner teaches moving a position identifier into a specialized region on a display screen. Specifically, "an event may occur when the cursor enters a predefined region

...." Col. 5, ll. 53-54. The passage fails to teach, however, a specialized path for any purpose, let alone one for moving a position identifier into a specialized region. To the contrary, it appears that the reference's cursor may be moved into its predefined region by any path with the same effect. The examiner's assertion that "[t]he specialized path of Goldman involves crossing the outside of/inside of predefined region boundary," (Examiner's Answer at 6), supports such an interpretation of the reference.

In view of this interpretation, we are not persuaded that Goldman teaches the claimed limitations of moving a position identifier into a specialized region on a display screen via a specialized path. The absence of this teaching negates anticipation. The examiner also fails to allege, let alone show, that Kerr remedies the defects of Goldman. In view of these failures, we are also not persuaded that teachings from the prior art would appear to have suggested the same claimed limitations. Therefore, we reverse the rejection of claims 1, 2, 5, 7, 8, 11, 13, 14, 16, 18, 19, and 21 as anticipated by

Goldman and the rejection of claims 4, 6, 10, 12, 15, 17, 20,
and 22 as obvious over Goldman in view of Kerr.

CONCLUSION

To summarize, the rejection of claims 1, 2, 5, 7, 8, 11,
13, 14, 16, 18, 19, and 21 under 35 U.S.C. § 102(e) as
anticipated by Goldman is reversed. Furthermore, the
rejection of claims 4, 6, 10, 12, 15, 17, 20, and 22 under 35
U.S.C. § 103 as obvious over Goldman in view of Kerr is also
reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
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